

REMARKS

Upon entry of this amendment, Claims 1-7 and 9-12 will be all the claims pending in the application. Claim 8 is canceled herewith without prejudice or disclaimer. Claims 1-7 are amended herewith. The amendments to Claims 1 and 3-7 are editorial in nature. Support for the amendment to Claim 2 can be found throughout the specification as filed, and at, for example, page 5, line 9. New Claims 9-12 are introduced to incorporate canceled subject matter from Claims 6 and 7. No new matter is added by way of this amendment. Entry and consideration of this amendment are respectfully requested.

In response to the Restriction Requirement, Applicant elects SEQ ID NO: 3 for examination. This election is made with traverse, for the following reasons.

Applicants note that for the examination of Patent applications containing nucleotide sequences, restriction of an invention to a single nucleotide sequence is *only* proper in National Stage Applications filed from International Applications under 35 U.S.C. § 371, where the claims are found to lack unity of invention. Applicants note that the Examiner has not indicated that the claims lack unity of invention, thus the Examiner has failed to meet her burden in setting forth such a Requirement. Accordingly, Applicants submit that the restriction is improper for at least this reason, and should be withdrawn.

The defects in the Requirement notwithstanding, Applicants respectfully submit that the claims as amended possess unity of invention, as evidenced by the Supplementary Partial European Search Report attached herewith. Specifically, the European Examiner acknowledges

RESPONSE TO RESTRICTION REQUIREMENT
AND SUPPLEMENTAL PRELIMINARY AMENDMENT
U.S. Appln. No.: 10/539,446

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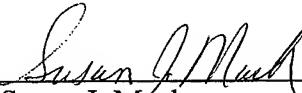
unity of invention between SEQ ID NOs: 1-3, because all three sequences derive from gag-pol. In this regard, Applicants note that Claims 1-8 as amended recite methods for using SEQ ID NOs: 1-3, or fragments thereof, concordant with the claims examined in the European Application, which, as discussed above, have been found to possess unity of invention.

In addition, Applicants respectfully point out that the examination of SEQ ID NOs: 1-3 does not constitute an undue burden since the searching required is coextensive inasmuch as a search for any one of SEQ ID NOs: 1-3 would result in searching of the other gag-pol sequences of SEQ ID NOs:1-3. In view of the above, Applicants respectfully request that the Requirement for Restriction be withdrawn.

Applicant reserves the right to file one or more Divisional Applications directed to non-elected subject matter.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: June 23, 2008



DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	<p>PARK WEE-SUNG ET AL: "Prevention of HIV-1 infection in human peripheral blood mononuclear cells by specific RNA interference" NUCLEIC ACIDS RESEARCH, OXFORD UNIVERSITY PRESS, SURREY, GB, vol. 30, no. 22, 15 November 2002 (2002-11-15), pages 4830-4835, XP002430602 ISSN: 0305-1048 * page 4831 - page 4832; figures 1,3 *</p> <p>-----</p> <p>CAPODICI J: "Inhibition of HIV-1 infection by small interfering RNA-mediated RNA interference" JOURNAL OF IMMUNOLOGY, THE WILLIAMS AND WILKINS CO. BALTIMORE, US, vol. 169, October 2002 (2002-10), pages 5196-5201, XP002988100 ISSN: 0022-1767 * page 5197 - page 5198; figures 1,2 *</p> <p>-----</p> <p>-/-</p>	1-8	<p>INV.</p> <p>C07H21/00</p> <p>C12N15/63</p> <p>C12N15/88</p> <p>A61P31/18</p> <p>A61K48/00</p>
X		1-8	<p>TECHNICAL FIELDS SEARCHED (IPC)</p> <p>C12N</p>

LACK OF UNITY OF INVENTION

The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

see sheet B

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The present partial European search report has been drawn up for those parts of the European patent application which relate to the invention first mentioned in the claims.

EPO FORM 1503 03.82 (P04C23)

Place of search	Date of completion of the search	Examiner
Munich	27 July 2007	Steffen, Pierre

CATEGORY OF CITED DOCUMENTS

X : particularly relevant if taken alone
Y : particularly relevant if combined with another document of the same category
A : technological background
O : non-written disclosure
P : intermediate document

T : theory or principle underlying the invention
E : earlier patent document, but published on, or after the filing date

D : document cited in the application
L : document cited for other reasons

.....
& : member of the same patent family, corresponding document



DOCUMENTS CONSIDERED TO BE RELEVANT			CLASSIFICATION OF THE APPLICATION (IPC)
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	
A	NOVINA C D ET AL: "siRNA directed inhibition of HIV-1 infection" NATURE MEDICINE, NATURE PUBLISHING GROUP, NEW YORK, NY, US, vol. 7, no. 8, July 2002 (2002-07), pages 681-686, XP002955298 ISSN: 1078-8956 * page 681 - page 685; figure 1 * -----	1-8	
A	WO 99/09154 A (HYBRIDON INC [US]) 25 February 1999 (1999-02-25) * claims; examples; sequences * -----	1-8	
A	JACQUE J-M ET AL: "Modulation of HIV-1 replication by RNA interference" NATURE, NATURE PUBLISHING GROUP, LONDON, GB, vol. 418, no. 6896, 25 July 2002 (2002-07-25), pages 435-438, XP002225640 ISSN: 0028-0836 * page 437; figure 1 * -----	1-8	TECHNICAL FIELDS SEARCHED (IPC)
A	YAMAMOTO T ET AL: "DOUBLE-STRANDED NEF RNA INTERFERES WITH HUMAN IMMUNODEFICIENCY VIRUS TYPE 1 REPLICATION" MICROBIOLOGY AND IMMUNOLOGY, TOKYO, JP, vol. 46, no. 11, November 2002 (2002-11), pages 809-817, XP009026313 ISSN: 0385-5600 * page 812; figures 2-4 * -----	1-8	
P, X	WO 03/070193 A (SIRNA THERAPEUTICS INC [US]; MCSWIGGEN JAMES [US]; BEIGELMAN LEONID [U]) 28 August 2003 (2003-08-28) * pages 6-15; sequences 43, 137 * -----	1-8	



Although claims 7 and 8 are directed to a method of treatment of the human/animal body (Article 52(4) EPC), the search has been carried out and based on the alleged effects of the compound/composition.



The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

1. claims: 1-8 (all partially)

RNA sequences or fragments thereof, that show anti-HIV activity, various embodiments of the RNA sequences, DNA sequences thereof and vectors comprising the sequences, as well as therapeutic applications, wherein the sequences are chosen from SEQ ID NO's: 1-3 (e.g. derived from gag-pol).

2. claims: 1-8 (all partially)

RNA sequences or fragments thereof, that show anti-HIV activity, various embodiments of the RNA sequences, DNA sequences thereof and vectors comprising the sequences, as well as therapeutic applications, wherein the sequences are chosen from SEQ ID NO's: 4-6 (e.g. derived from env).

3. claims: 1-8 (all partially)

RNA sequences or fragments thereof, that show anti-HIV activity, various embodiments of the RNA sequences, DNA sequences thereof and vectors comprising the sequences, as well as therapeutic applications, wherein the sequence is chosen from SEQ ID NO: 7 (e.g. derived from nef).

4. claims: 1-8 (all partially)

RNA sequences or fragments thereof, that show anti-HIV activity, various embodiments of the RNA sequences, DNA sequences thereof and vectors comprising the sequences, as well as therapeutic applications, wherein the sequence is chosen from SEQ ID NO: 8 (e.g. derived from 3'-UTR).

5. claims: 1-8 (all partially)

RNA sequences or fragments thereof, that show anti-HIV activity, various embodiments of the RNA sequences, DNA sequences thereof and vectors comprising the sequences, as well as therapeutic applications, wherein the sequence is chosen from SEQ ID NO: 9 (e.g. derived from LTR).

**ANNEX TO THE EUROPEAN SEARCH REPORT
ON EUROPEAN PATENT APPLICATION NO.**

EP 03 78 2054

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report. The members are as contained in the European Patent Office EDP file on. The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information.

27-07-2007

Patent document cited in search report		Publication date		Patent family member(s)		Publication date
WO 9909154	A	25-02-1999	AT	317432 T		15-02-2006
			AU	8771398 A		08-03-1999
			CA	2300352 A1		25-02-1999
			DE	69833438 T2		26-10-2006
			EP	1007657 A2		14-06-2000
			ES	2255732 T3		01-07-2006
			JP	2001514884 T		18-09-2001
			US	2002168340 A1		14-11-2002
			US	2003100521 A1		29-05-2003
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WO 03070193	A	28-08-2003	AU	2003215345 A1		09-09-2003
			CA	2476394 A1		28-08-2003
			EP	1572128 A2		14-09-2005
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